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## ABSTRACT

A study was made to identify and provide information and factors which should be taken into consideration by a municipality in its development of policy regarding the ownership, franchising, and ordinance issues involved in cable television. Since the report discusses Southern California activities, specifically those of the San Gabriel Valley, it is somewhat limited in scope. Listed are the advantages and disadvantages of private ownership and its relationship to the public interest in addition to financial and operational factors. Detailed factors of public ownership which include forms and cost factors favoring public ownership, engineering and financial projections, the financing of public ownership requirements for tax-exempt status, and social policy factors are examined in detail. Further, the report lists specific forms of public ownership and details the advantages and disadvantages of municipal ownership, ownership by a nonprofit organization, in addition to a special public authority model. The report takes a "low profile advocacy position" in behalf of the poor and/or minority groups and emphasizes that citizens may still take a hand in shaping public policy about cable television. (WCM)

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Municipal Decision-Making Factors  
Relative to Cable Television  
Ownership

A Joint Project of  
The San Gabriel Valley Public Cable Council  
The Pasadena Urban Coalition  
and  
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RELATIVE TO CABLE TELEVISION  
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October 1973

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## PREFACE

This report represents an attempt at providing an explanation of what factors should be considered in any process involving the decision of cable television ownership. While it purposefully attempts to avoid predictions by the very nature of the subject matter covered herein it takes a "low profile advocacy position" in behalf of those citizens in American society who tend to derive fewer benefits from anything old or new. These citizens are usually poor and/or members of minority groups.

Like many reports before, this effort suffers of necessity from the uncertainty and newness of the communications medium it seeks to describe or explain, and the beneficial usage it seeks to advocate. Yet, it differs or deviates from other such reports in that it seeks to address itself to policy factors which should be considered by municipal decision-makers who presently have the task of regulating the use or ownership of cable television through local ordinances and franchise agreements. Also, unlike other reports, the manner in which the subject matter is presented indirectly places specific emphasis on the potential of cable television in promoting the First Amendment's purposes and interests of freedom in diversity and expression in order that an informed public may cope with the exigencies of their period.

This report reflects the attitude of speculative futuristic amazement as well as the sincere aspirations of many who have become activists of cable television as a "problem-solving" communications medium.

It is certain that cable television is beginning to create a public interest, public access video tape revolution. Neil Hickey, in his Notes from the Video Underground (printed as a two-part series in T.V. Guide, commencing in December, 1972), calls it "the new television for the 1970s," and describes how it has already engaged the talents, energies, and imagination of people who never dreamed they might themselves become creators of programs instead of remaining mere passive receptors.

As to be expected, Panasonic, Ampex, Akai, Sony, Bell and Howell, and other manufacturers of TV cameras are assisting in adding to the number of enthusiasts. Two recent technological innovations make possible the alternate media movement: the portable, inexpensive TV camera, and the video synthesizer. The Sony Corporation introduced its light-weight (22 pounds), low-cost (\$1500), fully portable, battery-operated television system utilizing half-inch reusable video tape in 1968. This has had considerable impact on the economic considerations for entering into film making. Previously it cost roughly 110 dollars for 30 minutes of black and white film with magnetic soundtrack proposition, but now can be considered for approximately \$12 to \$15 per 30 seconds on video tape that records sound right onto the tape, requires no processing, and is reusable.

Such impact on economic considerations has motivated campaigns of activists such as Ms. Red Burns and Professor George Stoney. As Directors of New York University's Alternate Media Center, they have developed new

visual literacy among people who want to create programs for the Center. Open Channel, another New York nonprofit group directed by Ms Thea Sklover, has the more specific aim of making public access a reality. California also has its organizations vying for their position in the alternate media, particularly in the northern part of the state where an "umbrella" organization representing minority group interest has fostered a venture with a private operator for a state-wide public access cable television channel.

Perhaps the best known advocates of minority interests in "over-the-air" broadcasts, and cable TV are the Black Journal (a New York based organization which is America's only Black affairs TV broadcaster) and an affiliate of the Public Broadcasting Service with its 230 public TV stations across the country. The Washington, D.C., organization BEST of the Urban Communicator, whose primary spokesman, Ted Ledbetter and William Wright, seems to have focused its interests primarily on cable television recently.

This paper is a report out of a committee which has been engaged more directly in local Southern California activities, specifically the San Gabriel Valley. Consequently, the report, which is basically the product of the franchise subcommittee of the San Gabriel Valley Public Cable Council, is limited in scope, but is designed to meet the needs of the municipalities, of the community organizations, and private and public educational institutions who are member-participants in the Council.

Special acknowledgements go to Dr. Louis C. Riess for his painstaking work with the Council and the insights he brought to this final report; to Ms. Angela Pickett of the Beverly Hills Bar Association Law Foundation for her legal research; and to Harold Horn of the Cable Television Information Center in Washington, D.C., who was particularly helpful in reviewing the final draft.

Special gratitude is given to: Roger Storey from the City of Glendale, and James Buell, Research Analyst for the City of Burbank, for their comments on the Municipal Ownership Section; and to John Calvetti of Optical Systems Corporation, Ray Cadej of the City of El Monte, and Roderick McIver of the Greater Los Angeles Urban League for their assistance with the Private Ownership Section.

## TABLE OF CONTENTS

I.	Statement of Purpose.....	1
II.	Introduction.....	2
III.	FACTORS OF PRIVATE OWNERSHIP	
	A. Introduction.....	4
	B. Advantages and Disadvantages.....	6
	1. Public Interest.....	7
	2. Financial.....	8
	3. Operational.....	8
IV.	FACTORS OF PUBLIC OWNERSHIP	
	A. Introduction.....	10
	B. Forms of Public Ownership.....	10
	C. Factors Favoring Public Ownership.....	10
	D. CTV Cost Factors.....	12
	E. Engineering and Financial Projection.....	14
	F. Financing Public Ownership.....	15
	G. Requirements for Tax-Exempt Status.....	16
	H. Social Policy Factors.....	17
V.	SPECIFIC FORMS OF PUBLIC OWNERSHIP	
	A. Municipal Ownership	
	1. Introduction.....	19
	2. Organization.....	19
	3. Advantages and Disadvantages	
	a. Public Interest.....	20
	b. Financial.....	22
	c. Operational.....	25



B. Nonprofit Organization	
1. Introduction.....	26
2. Advantages and Disadvantages	
a. Public Interest.....	27
b. Financial.....	27
c. Operational.....	28
C. Special Public Authority Model	
1. Introduction.....	28
2. Organization.....	30
3. System Construction and Operational Alternatives.....	31
4. Advantages and Disadvantages	
a. Public Interest.....	31
b. Financial.....	32
c. Operational.....	32
VI. Summary.....	33
VII. Bibliography.....	34
VIII. Suggested Reading.....	34

## I. STATEMENT OF PURPOSE

The advent of cable television along with its attendant implications--political, social, technological, and financial--has by and large taken municipalities by surprise. This fact is simply explained: local decision makers are faced with the responsibility of regulating a new technology which is capable of generating a vast array of social services but without the benefit of adequate information about this complex communications medium.

Municipal governments must be equipped with objective information regarding cable communications medium for several reasons:

1. To be in a position to evaluate the information provided by prospective franchisees. 2/30\*
2. To initiate their own plans for developing a cable system.
3. To make appropriate decision in developing a regulatory framework in which a system responsive to the public interest exists.

The purpose of this paper is to identify and provide information and factors which should be taken into consideration by a municipality in its development of policy regarding the ownership, franchising, and ordinance issues involved in cable television.

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\*Footnotes refer to the Bibliography, with the first number denoting the specific bibliographic source, the second denoting the page number of that source.

## II. INTRODUCTION

In an ideal situation, planning for cable television would begin as a prudent anticipation of the future and not as a reaction to sudden political pressures for granting a franchise. All too often, however, the initial step in the planning process is launched by the announcement that a commercial firm is seeking information regarding the community's TV franchise.

It should be stressed that the form of ownership of a cable system taken alone does not necessarily dictate the presence or absence of public interest criteria. Following a thoughtful identification of some public interest criteria, Walter Baer, in the Rand Cable Study for Dayton, Ohio, pointed out that

...many of these features (certain enumerated public interest criteria) conflict with one another. In a franchise competition...the trade-offs among them must in the end be determined by the value judgments of the decision makers.

A more important point is that most of these value choices are independent of the form of ownership. The trade-off between lower subscriber fees and more expensive local origination facilities must be made whether the cable system is owned by a large corporation, a nonprofit group, or the city itself. Benefits for the public from cable will be determined as much by the terms of the local franchise as by the form of ownership. 1/10-7

The fundamental questions raised for the decision-makers of municipalities will focus on (1) the feasibility of financing a publicly owned system which is committed to providing public services, and (2) the feasibility of having a profit-oriented private franchise without loss of public services.

The form of ownership of cable communication facilities in a city fundamentally hinges on the threshold question of what the city and its citizenry want and expect from the communications system of the future. Will the desired system be an essential municipal service, or will it be a private business? The question involves an analysis of a number of other questions. What kind of system is desired? What services should the system provide? Will the system emphasize public services? Is it a meaningful source of revenue? Is it viewed as a ancillary benefit to the city, both now and in the future, or as potentially the cornerstone upon which municipal services will be organized?

Generally, division of responsibilities in the provision of cable television service had been twofold: (1) the franchising authority as regulator (in conjunction with the FCC), and (2) the franchised system operator as owner, operator, controller of access and program content, and producer of programs. This arrangement, however, is not the only way in which these functions can be performed.

The franchising authority's primary interest is in assuring that high quality service is delivered to all subscribers, in maintaining reasonable rates and in seeking the system utilized to advance the public good. These objectives could be achieved through any number of system ownerships discussed in this paper.

Cable television is not automatically accompanied by social benefits; the worth of the system also depends upon such considerations as the imagination devoted to the programming and the willingness to commit resources.

The decision-making process employed in selecting any form of ownership among several alternatives cannot be an arbitrary one. An examination of all available information <sup>2/30</sup> by a municipality is necessary regardless of which form of ownership is ultimately selected.

### III. FACTORS OF PRIVATE OWNERSHIP

#### A. Introduction

Private ownership of cable television franchise and systems connotes simply the fact that government does not own the cable system. It is generally accepted that private ownership conversely implies ownership and operation by a multi-million dollar corporation of national scope. However, there is more than one form of private ownership possible. There are smaller cable companies which are controlled by local business groups and small, regional corporations.

The financial power of a national corporation and the legal resources available make it difficult for a city to deal with them on an equal basis. Simply, there is an inverse relationship between the size of a corporation and the amount of influence a city can exert on it. A \$2 million investment is less important to a corporation with \$200 million in assets than one with \$20 million. There are smaller, less powerful corporations in the CTV field which could be easier to deal with than the larger, wealthier concerns. It is also possible in some places for local investors to generate the capital necessary to establish a community-based cable system.

The private form of ownership does not, however, preclude the necessity for work on the part of a municipality, nor does it necessarily preclude the public interest being served. The form of ownership is only one factor in a complex system. Citizens could be equally benefited by a well constructed and utilized private system as they would by a well operated municipally owned system.

Presently, there are approximately 18 municipally owned and operated CTV franchises, about 60 nonprofit groups that are community controlled, and some 5000 franchises owned by profit-making corporations. About half of these are, for the most part, small fringe area franchises; the remaining franchises granted for the period 1971-73 in nonfringe areas are owned by the larger cable television companies.

In the old fringe area operations of 1948-1972, the service was simply the rebroadcasting of existing TV signals into fringe areas to provide or improve reception. The system was simple and easy to operate. Market penetration was high, and the system could be constructed for as little as \$60 per subscriber. The franchises were almost exclusively owned by private enterprises, and in most cases, generated large profits.

New FCC regulations now make it economically feasible for CTV to invade the nonfringe areas and openly compete profitably with the broadcast TV industry. This has resulted in the awarding or application for an additional 5000 new CTV franchises in the past two years, twice the number of operational franchises developed between 1948 and 1970.

Cypress Communication Corporation's venture in Southwest Dayton, Ohio, is an example of a locally based effort by a major corporation. Citizens Cable Corporation, was established to provide minority participation in the organization's management and contract relationships. This minority group organization will progressively gain power and finally ownership of the system as the loan is paid through the use of accrued profits.

This is not the only possible form of community ownership, but it is one form which is being tried. Some type of community based ownership ultimately might prove to be most useful to the municipality involved and, just as important, most beneficial to its citizens.

A private-ownership franchise does not lift from the granting city government the responsibility of studying and analyzing cable television. The FCC still requires the local agency to be the primary regulatory agent of CTV. Regulation of even a small local system requires an involvement of staff, time, and money. Furthermore, if a city hopes to acquire concessions for public service in the letting of a franchise to a private firm, it will require as much work as the establishment of a municipality owned system. If there is not an extensive amount of research completed prior to the bargaining phase of the franchise process, the city council will be operating in the dark.

In order to be in the proper bargaining position, there, the city council should have market studies and demand estimates at their fingertips. They should have an idea of what the community wants or could use from cable TV. They should know the educational uses of the proposed system. The potential uses for city government should be understood. The costs of various packages of services proposed have to be estimated. The ability of the proposed franchise area to support various services at a profit-making level must be ascertained.

This type of information is critical to the development of an intelligent franchise agreement. Only when a city councilman has a clear idea about the specific needs and economic ability of his city can he deal effectively with a CATV corporation. Being able to point out in the bid specifications the most desired services in order of priority and how they can be financed will greatly enhance the power of a city's demands.

The private owner might be a local corporation formed solely for cable, an existing corporation involved in some other local enterprise, or an multiple system operator (MSO). A franchise might be granted to provide an opportunity for minority groups to develop a neighborhood profit enterprise in one or more franchise areas.

Presumably, these incentives could be enhanced if the city were to franchise local corporations with a stake in the community, such as an existing local enterprise or a new minority group corporation. On the other hand, a nationally based MSO with more resources for technical development of new services might be in a better position to offer services which pay for themselves.

At this time in the development of CTV, the emergence of a few large, well-financed corporations with the ability to invest large sums in programming and services, appears most likely to generate innovations within the industry rather than retarding them. However, this doesn't preclude larger cities with both capital and technical resources from providing equal services.

## B. Advantages and Disadvantages of Private Ownership

The private form of ownership works to the advantage of the community within certain guidelines. The first of these is that the community must take an active interest in all aspects of the franchising process. Secondly, important is the fact that the corporation must have a satisfactory record of performing well in past agreements. With these two conditions met, a city can expect to attain a favorable private ownership franchise agreement.

Meeting the first guideline would assure that an intelligent, beneficial franchise ordinance would be designed. A successful franchise is dependent on input from all segments of a community. Early involvement by the business community, educators, students, parents, churches -- in short, all the social groups -- should be encouraged by the local governmental unit. Economic analysis coupled with these social inputs should result in the design of a desirable and feasible ordinance proposal, insure the protection of the community's interest in the development in a comprehensive franchise ordinance, and would also increase community acceptance and use.

Meeting the second guideline is vital and more difficult. Many corporations view present FCC guidelines as maximums rather than minimums. This attitude could make it difficult to gain any concessions from potential franchisees. A more serious aspect of this same problem is that portions of franchise agreements exceeding FCC guidelines might be deleted by the FCC during the certificate of compliance reviewal.

The franchising process, therefore, is threefold. First, a city must find a corporation willing to sacrifice immediate profit for long-term gains accruing from improved community relations. Second, FCC approval of the agreement must be gained. The third aspect is to insure corporate compliance of contract provisions during the franchise length.

Presently, there is still some speculation as to what the FCC will approve. However, it is quite likely that a commitment of private local monies to CTV projects could aid efforts to gain public service concessions from the franchisee. If enough money is invested, local shareholders could exert a strong influence on policy decisions of the corporation in terms of their municipality.

The problems, however, of the private ownership approach should not be minimized. It must be understood that a corporation is operating within a profit motivation. This frequently leads to a different view of public interests manifested most obviously in the orientation to mass audience appeal programming rather than specifically aimed local programs. It is unlikely that wide appeal entertainment programs will do much to solve unemployment problems or alleviate educational deficiencies within a city.



CTV is a high-risk operation and the interest rate on capital forces a private concern to be highly sensitive to programming costs and returns. A program that generated low viewer interest is simply uneconomical. This type of program, however, would be uneconomical for a municipally owned system also. A municipally owned system could cut some of the costs, but it is doubtful that they could cut them significantly given comparable quality. Under the private ownership system, the citizens would be fully aware of the costs of the services they received and could express their approval through subscription demand level.

It should be re-emphasized that the private ownership model is only one alternative and only beneficial within certain constraints. A city should be prepared to study other forms of ownership or the limiting constraints cannot be met. Private ownership should not be looked upon as a way to relieve the city administration of the work required to establish a CTV system. Nor should it be approached as the ideal system. However, neither is it inherently unworkable in a public service context. Its feasibility and usefulness hinges on the effort put in on the local level and the cooperation of the owners.

#### 1. Public Interest Factors:

##### Advantages

1. The city need not involve itself in the political issues germane to a municipally owned system.
2. The short run political costs of gaining special programs for the poor and minorities through cable may far outweigh their advantages in the eyes of the politician. This is particularly true if a private firm is willing to provide similar public service benefits.
3. An informed municipality can design a franchise that would gain concessions from the cable industry and work to the advantage of the community. Much of the blame for franchise agreements detrimental to the public interest can be laid with the granting municipality, not the corporation.
4. It is possible for a municipality to fashion criteria for franchise awards and actual franchise conditions so as to approximate the level of services which would be provided by a public entity.

##### Disadvantages

1. If the city does not examine other forms of ownership, it will be inadequately informed when dealing with private companies.
2. Many proposals of private prospective franchises indicate a view of public service which is unimaginative and myopic and makes minimal commitment in the area of public interest.
3. Private ownership by profit seeking entities (many time large corporations) is likely to focus on programming development for mass audience appeal, instead of substantially directing resources into programming which is responsible to the true need and social problems of the communities which they service.
4. Community access channels presently provided in cities having cable TV are, with a few notable exceptions, empty the majority of available time. Educators have failed to make commitments necessary to utilize cable media as a major teaching tool. Cities in tight venue situations have been reluctant to invest in public service programming.



### Advantages

5. In the top 100 markets, FCC regulations require the providing of one channel each to government, schools, and the public. Proper use of this channel space could provide many of the public service needs of a community without government being involved in the entire operational process of the system.

#### 2. Financial Factors:

1. There is no need for the city to raise money for capital outlay and operating expense.
2. City monies need not be vested in a risk capital venture. It is unlikely that a city would have surplus dollars to invest in a cable TV system that would probably not return any money to city coffers for several years.
3. Some municipal services could be performed via cable, resulting in operational savings which in the long run could offset the cost of construction.
4. Some city revenue would be generated through taxes, however, the majority of these monies would go to county, state and federal agencies.

#### 3. Operational Factors:

1. The city council would not have to manage the construction and operation of the system.
2. Private MSO ownership could bring greater management expertise to operate the system and greater resources to develop new programming and new services.

### Disadvantages

1. The cost of private development and operational capital is much more expensive than tax-free municipal financing, resulting in a higher cost to the system users.
2. Private corporations have to make a profit, whereas municipal ownership could operate at cost or at a small profit which could be returned to the city treasury, more than offsetting the loss of local tax revenue.
3. The cost of local services leased from the system owner would cost more than if leased from a municipally owned system.
4. Profit making corporations owned by interests outside the city would remove profits from the community instead of recycling these funds.
5. Private ownership limits city revenues to 3% of subscribers' fees and total revenues.

1. The 3% franchise fee would be too small to adequately monitor the system.
2. There could be difficulty in the enforcement of the contract terms between the franchisee and the city. The typical enforcement

3. City would have less responsibility in monitoring the system, any consumer complaints and the utilization of the public channel.

mechanism is the performance bond, upon which the city would have to rely in order to insure system construction. Therefore, the city has the time-consuming problem of periodic systems review and punitive devices, such as punitive bonds for system construction and operation. If these alternatives are ineffectual, the city is faced with the public process of franchise revocations. In order for the city to protect itself against these processes and pursuant to a schedule of fixed amounts designated for specified violations of franchise/ordinance agreements, the erring cable operator is "billed" by the city diminishing the performance bond by the appropriate amount. This device is often complemented by the ultimate sanctions of revocation of the franchise or nonrenewal after the term of the franchise has run.

#### IV. PUBLIC OWNERSHIP

##### A. Introduction

While there are some substantial differences between public and private conceptualization of cable as an all encompassing telecommunications service medium, the issue confronting municipalities does not have to be limited to a choice between public and private development. Alternative measures can be utilized to assure meaningful compliance with public need on the part of private owners. This may, however, prove to be a task so difficult as to force the issue back to a choice between public and private ownership. This is because many private companies which are now in the process of seeking franchises are extremely reluctant to provide anything above and beyond minimum FCC requirements. In order to implement a public service plan which exceeds some FCC requirements -- i.e., channel capacity -- FCC approval is needed.

Many of the policy factors offered in support of public ownership as the form which will be most responsive to the need of the public must be evaluated in light of the particular facts confronting a municipality. This is mentioned not to negate the validity of these factors, but rather to caution that each policy factor should be examined in depth in order to establish its significance for each municipality. Further, it should be noted that certain trade-offs may be involved in opting for public, instead of private ownership.\* But again, the weight attached to factors which will actually be lost by selecting public ownership must be established with reference to the particular prospective franchisees and their respective proposals.

##### B. Forms of Public Ownership

Should a city decide to opt for public as opposed to private development of the cable system, a choice between public models (Direct ownership by the municipality, nonprofit corporation, special public authority) and other combinations of private and nonprofit groups.

With respect to all models of public ownership, terms governing the construction, operation, and maintenance of the system must be set out, just as they are for private ownership. Such terms would be the equivalent of conditions imposed on a private owner by means of a cable ordinance, and a franchise, although the form in which they would be embodied might vary depending on the mode of ownership.

##### C. Factors Favoring Public Ownership<sup>2/40-49</sup>

The cable television study committee, in its report to the Common Council of the City of Detroit, identified the following factors which favor opting for public ownership. The primary motivation in developing cable should be the system's potential for becoming the "pervasive" communications medium for the city and its residents.

1. If substantial profits are to be realized at some point, the system should be constructed by a public entity using profits to improve the system, which could be done without foreclosing a role for private enterprise in operating the system.

2. Private need for profit would jeopardize the level of services provided.

3. Comparatively speaking, public borrowing is less expensive than private because the returns on public bonds are tax-exempt, and thus a public entity could take advantage of lower interest rates.

4. Lower subscriber rates should be ensured through public ownerships.

5. Sensitivity to the interests of all citizens. Reasoning that the same need to maximize profits which in the broadcasting industry led to catering to majority tastes will be operative in cable, the committee concluded that there is a greater probability that a publicly appointed board would provide more attractive and diversified programming and maximize public services than would a private entrepreneur.

6. Procurement of effective management and administration. The committee acknowledges that satisfaction of these indices are a function of the caliber of people who are recruited to manage the system, as well as the concerns and interest of the organization's directors. One advantage under public ownership would be the assurance that the ethnic and residency requirement of management personnel would be more easily met.

7. Maximum incentive for creating and maintaining the highest level of services for the city and its residents. Acknowledging the fact that it is unrealistic to expect a private entrepreneur to be willing to defer profits and immediately implement the variety of services recommended, the committee claimed that a public entity with long-term financing can do so without pressures from stockholders to return some profits during the early stages.

8. The public utility nature of the services performed. The realities of the money market will dictate a private entrepreneur's need to obtain substantial returns to offset the risk he has taken, while in the case of a public authority or nonprofit corporation, all that is required is to break even.

9. Ability to financially withstand initial periods of low revenues without long-term financing. It is not possible for a private entity to both provide high service and defer profits. This fact is significant because during start-up periods, subscriptions are initially slow, and funds are required to pay expenses for operations.

10. Responsiveness to public concerns, and the caliber and quality of the programming which might be provided on the cable. Private entrepreneurs have

almost no local origination experience, so there is little to suggest his superiority over the public's. Finally, the committee asserts that a public entity has more freedom to use revenues to improve services and programming than a private entrepreneur who must obtain profits.

11. Both public and private forms must be able to meet operating and capital expenses through subscriber fees, a public entity specifically committee to utilizing the cable system as a telecommunications medium to serve the people would be more likely to ultimately direct its profits back into public service than would a private operator who would be obligated to return profits to investing shareholders.\*

#### D. CTV Cost Factors for Hardware

The following hardware cost factors are based on information available at the time of publication and reflect the cost of building the average one-way distribution system, providing for both quality color fixed and mobile production facilities.

##### 1. Capital Cost Distribution System

###### a. Cable Feeder and Line

- (1) Cost of the coaxial cable, gauge 59; amplifiers, and their placement along the street. Two estimates of \$6500 per cable mile, and \$9000 per cable mile. The above figures correspond to the estimated investment cost of above-ground installation per mile cited in the League of California Cities report.
- (2) Underground cable lines could cost anywhere from \$10,000 per cable mile and up depending on the type of street construction.
- (3) Trunk cable connecting the local antenna and broadcasting facilities with the master control facility at \$12,000 per mile.

b. Master antenna and control facility or the main switching station from which programs originate from local broadcast centers would be sent to other local systems, approximately \$150,000. (This figure falls within the cost range described in the League of California Cities report.)

c. Local antennas with more than one antenna being necessary, "due to the inevitable deterioration of the signals as they are amplified over the line," \$40,000 per antenna at 150 ft. height, with inflation raising the rate to \$49,000 in five years.

\* 1/10-10

## 2. Capital Cost for Programming

- a. Professional color television studio using two Shibaden FP 1200 three-plumbicon television studio cameras, color film chain, three one-inch helical scan IVC color video recorders, broadcast production switcher, announce booth, complete production console, audio reel-to-reel and cartridge recorders, lighting, and all necessary hardware and cable. Basic hardware and equipment includes:

(1) two FP1200 Shibaden Color TV Cameras.....	\$32,520
(2) two XX111 Rank-Taylor-Gibson zoom lens.....	7,800
(3) two Hercules Pedestal with Cam-Link Head.....	1,400
(4) one HV1100 Shibaden Film Chain Camera with Automatic neutral. ....	11,000
(5) one 5300 Series Laird Multiplexer with Bell & Howell JAN 16mm Projectors and a dual 35mm projector.....	11,000
(6) one Visual Electronics Production Switcher, installed.....	15,000
(7) one complete Production Console with individual camera picture and waveform monitors, Rapid-Q cartridge recorder, digital clock, patch bays, etc.....	27,000
(8) one IVC870C one-inch color Video Recorder with assemble and insert edit; and two IVC825C one-inch color recorder with capstan servo and record monitoring.....	20,400
(9) Lot, Colortan Studio Lights.....	4,000
(10) Microphones, stands, hardware, cable and other items needed to complete color studio system (price includes engineering, delivery, installation, check-out, as-built drawings, instructions with instruction manuals, and one-year warranty on parts and labor, 90-day image tubes and VIR heads).....	19,290

TOTAL \$149,410

- b. Mobile Video Color TV Unit (self-sustaining)  
Cost: \$75,000 - \$125,000 (varies as to type of equipment).

(1) two HB1100 Shibaden color cameras.....	\$20,000
(2) two cable 200M lens 10 to 1, 200mm.....	2,200

(3) two pedestal cam heads.....	1,000
(4) one visual electronic production switcher.....	8,000
(5) one complete production console with individual camera picture and waveform monitors, Rapid-Q cartridge recorder, digital clock, patch boys, etc.....	27,000
(6) one VC870C one-inch color video re- corxer with assemble and insert edit.....	20,000
(7) one VC825AC one-inch color recorder with capstan servo and record monitoring.....	6,200
(8) studio lighting kit.....	1,500
(9) Colortran studio lights.....	2,000
(10) Mobile van power.....	4,000
(11) Miblie van cost.....	12,000
TOTAL	<u>\$104,700</u>

### 3. Other Cost Factors

- a. Personnel costs for the distribution system are included in the capital cost of the distribution system.
- b. The capital programming costs are only for equipment (hardware) and do not include the following cost factors:
  - (1) land
  - (2) building
  - (3) staff
  - (4) other related software costs

### E. Engineering and Financial Projections 2/30, 1/2-1, 1/2-160

Engineering and financial projection studies should precede the ultimate determination of which form, public or private, will be responsible for developing a municipality's cable system.

Such studies are necessary in order to define prospective services the system will offer and to decide whether an "acceptable level of services can be provided under alternative modes of ownership."\* Based on the above reasons, the Detroit cable study committee recommended that the city declare a moratorium on all cable television decisions so that the city will be able to undertake such studies.



## 1. Areas of Study

- a. The demand, cost and benefits from the community, public access, municipal and educational uses.
- b. Software or programming costs require initially to provide the full range of services.
- c. Benefits, including cost savings, to the municipality through application of cable municipal services such as police and fire protection, vocational rehabilitation, inspector monitoring of construction work through mobile cameras, educational programming, job information, police recruitment, etc.
- d. The feasibility of having a private franchisee without loss of public services, including a determination of the cost of such services as channels for public uses along with the required equipment and staff, funding of programming, training programs, cost reduction for certain users.
- e. Market analysis to determine the time-frame for subscriber penetration.
- f. The possibility of partially supporting the cost of programming television aspects of cable through the allocation of funds from gross revenues or revenues from advertising.
- g. Evaluation of competing technologies and the complexities of installation.
- h. Potential revenues from pay television and non-television uses of the system, i.e. data transmission and alarm systems.
- i. Feasibility of public financing through general obligation and/or revenue bonds.

## F. Financing Public Ownership

Public services cost money. Someone will have to pay the costs no matter which form is ultimately selected by a municipality. Logic and reason strongly suggest that the someone will be the residents of the community to be served. If a private entity owns the system and the city imposes the burden of comprehensive public services as a condition of ownership, the public will probably end up bearing the cost through higher subscriber fees. If the public entity is responsible for development and operation of the system, the public again must pay. Public ownership which will provide a multifaceted range of public services increases the overall cost of the system. This is because the amount of capital needed to develop such a system is jettisoned upwards. The public monies which might be spent on more urgent needs are being diverted into



the cable system. In addition, a more expensive system will create pressures on a municipality to raise taxes or initiate new taxes to support the system. This could mean that persons subject to a city's taxing power, but who are not themselves cable subscribers, would be forced to support the system.

The feasibility of public financing should be the object of a comprehensive study undertaken by each municipality itself before making the easy choice of relegating the development of its cable system to the private company sphere.

Given the overwhelming financial requirements of the new telecommunications industry, it is no small wonder that the private profit-making concerns which are more capable of raising investment capital (from the usual business sources, banks, etc.) have dominated the ranks of cable franchise holders.

G. Requirements for Tax-Exempt Status (A Summarization of the Requirements Discussed in the Detroit Study, p. 42-32)\*

1. The corporation must engage in activities essentially public in nature. This is satisfied if the corporation engages in something which the city itself would have powers to undertake, and because a city has the power to develop and operate a cable system, the requirements would be met.
2. The corporation may not be organized for profit. However, organization for profit for the purpose of retiring indebtedness is allowed.
3. Satisfaction of the requirement that the corporate income must not inure to any private person is met by qualifying under the state law as a nonprofit corporation.
4. The state or political subdivision must have a beneficial interest in the corporation while the indebtedness remains outstanding, and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon the retirement of such indebtedness. In meeting the beneficial requirement, the city could be given the right to purchase the cable system at any time for a price equal to the indebtedness, with all shares of the corporation's capital stock or its membership certificates held in trust for the city. Satisfaction of the city obtaining title upon retirement of the indebtedness could be specified as part of the terms in the articles of incorporation and/or both trust instrument.
5. The corporation and the specific obligations issued by it must have been approved by the state or political subdivision.

\* Additional variations of these requirements may appear in the various states.

## H. Social Policy Factors

### 1. Introduction

Since the major attraction and oft-cited advantage of public ownership of cable TV is the commitment to public services both in terms of programming for subscribers and in terms of employment and management opportunities for local residents, the initial discussion of public ownership alternatives usually is focused on an elaboration of social policy factors.

### 2. Failure in Meaningful Compliance with Public Need (Example)

The purpose of the following example is to provide an illustration of the philosophical incompatibility of commitment to effectively meet the need for public service-oriented programming geared to be responsive to community needs and problems and the commercially based profit-oriented nature of private ownership.

Several months ago, a major national cable company submitted an application for a cable franchise to the appropriate municipal body in a large California city. The application was for the entire city area, with a separate request for the area encompassing a Black community which represented almost 18 percent of the total city population. The proposal for programming, while setting forth plans to comply with minimum public access channel and over-the-air television signal carriage requirements (as well as other FCC minimums), emphasized entertainment and sports program packages as its selling point. Taken alone, this proposal does not seem patently offensive or violative of the public interest. However, when the demographics of the Black community to be served are examined, a much different assessment of the entertainment and sports emphasis of the proposed "service" emerges.

This particular Black community was not substantially different from poor urban communities throughout the country in terms of its problems: grave unemployment, inadequate educational opportunities, lack of adequate recreational facilities, substandard housing, community-police relations problems, insufficient health care facilities, swollen welfare rolls and lack of meaningful visibility of residents or their problems afforded by the new media, especially television.

Cable television, of course, is technologically capable of providing solution-oriented programming and services to meet many of these opportunities for the residents of the community and thereby provide the system with subscribers so essential to its survival. A focus on entertainment and sports seems ludicrous when evaluated from the standpoint of community needs, rather than from the perspective commercial profit and compliance with minimum FCC public interest requirements.

Many enlightened commentators in responding to this basic incompatibility, between meaningful response to public need and private ownership, have articulated policy considerations which favor opting for public rather than private development of a municipality's cable system.

### 3. Specific Alternatives to Ownership that Protects Minority Rights

The specific alternatives to ownership which would protect a minority group's right to employment and responsive programming in a municipality's cable system include the following measures, proposed by the Detroit cable TV study committee:

a. Designation of the construction and certain operating functions to a special public authority or nonprofit corporation, the directors of which would be residents of the municipality to be served and would reflect the minority group composition of the municipality.\*

b. Contracting or subcontracting out to local firms, including minority firms system-wide functions which are the responsibility of the special public authority of nonprofit corporations such as: solicitation of advertising, obtaining programming for commercial channels, maintenance, technological improvements, operation of the commercial channels, developing local programming for the commercial channels, soliciting subscribers for the system. \*\*

c. Decentralization of programming for the public, municipal and educational channels achieved by the creating of cable districts, the formation of which would be in part determined by ethnic group boundaries.

d. Requiring that all persons employed in construction, operation, and maintenance of the cable system proportionately reflect the racial and minority group composition of the population of the municipality.\*\*\*

e. Requiring that the system operator not discriminate on the basis of race and that the operator and those connected with construction, operation, and maintenance of the system fulfill the affirmative requirements of the local, state, and federal law relating to equal employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, and selection for training, including apprenticeship.\*\*\*\*

## V. SPECIFIC FORMS OF PUBLIC OWNERSHIP

### A. Municipal Ownership

#### 1. Introduction

This discussion of specific forms of public ownership will include the following: municipal ownership; nonprofit organization; and special public authority.

There are presently about 18 municipally owned cable systems, ranging from one of 130 to one of 5,000 subscribers. It is apparent that most of these systems evolved because television reception was inadequate or non-existent, and private operators were either not able or willing to serve the area. Now, municipal ownership is being considered by a number of cities regardless of the availability of private investment funds, primarily because of public interest considerations and expansion of potential uses of cable television under new regulations.

The appropriateness of municipal ownership of cable communications facilities in a city hinges, fundamentally, on the threshold question of what the city and its citizenry want and expect from the communications system of the future. Will the desired system be an essential municipal service, or will it be a private business?

The question involves consideration and analysis of a number of issues: What kind of system is desired? Will it be primarily and entertainment mechanism for subscribers? Is it chiefly a source of revenue? Is it viewed as an ancillary benefit to the city, both now and in the future, or as potentially the cornerstone upon which municipal services will be organized?

A system which is directly owned by a city could be operated (1) by a city department or agency, or (2) by a private concern under a management contract from the city.

#### 2. Organization

A city operating its own electric utility may have in existence an organization capable of financing and handling installation and maintenance of the cable television distribution system. Depending upon workload, some installation work may be best accomplished by contract. Head-end and studio facilities and equipment should be engineered and installed under contract because of the specialized knowledge and experience required. Cities without electric utilities would have to establish an organization capable of installing the distribution system, both overhead and underground.

Additional technically qualified personnel would have to be hired to maintain the electronic equipment in the head-end, studio, and distribution system.

Most of the supporting services, such as financial accounting and billing, personnel administration, engineering, and legal services, may be provided

entirely by the general government organization once sufficient training is given to orient existing staff to any unique requirements of cable TV.

Program management is the challenge presented by cable television with which cities are least familiar. If a city is highly motivated to do its own program management, trained and experienced personnel may be obtained if competitive salaries are offered and an extensive recruitment is conducted. The staff would have to include an experienced director of program management to be effective.

Another approach would be to contract with an established cable TV company for program management services, ensuring that the public interest is protected through specific guidelines built into the contract. The management contract concept could be broadened to include expansion of the distribution system, service connections, maintenance of the entire system, and customer relations. This approach would be especially attractive to cities without electric utilities. However, someone within the city government should be assigned responsibility for close administration and monitoring of the management contract, if adequate public control is to be maintained.

In the interests of economy, cities with electric utilities should make every effort to absorb as many cable television functions as possible within the existing utility and general government organization, with the exception of program management, which probably can be best accomplished under management contract.

### 3. Advantages and Disadvantages of Municipal Ownership

#### a. Public Interest Factors

##### Advantages

1. It is possible to view cable communications as essentially a municipal service in the nature of a public utility. Broadband communications carries with it the use of cable for essential municipal services (police and fire surveillance, traffic control, meter reading, and education, including interactive instructional techniques, interactive community information retrieval and computer assisted instructions). This view of cable emphasizes the public service-public interest approach to cable with the television and entertainment portions of the cable communications system viewed as ancillary.
2. Because it is tied more directly to community, a municipality will probably emphasize the public service nature of cable communications by:

##### Disadvantages

1. Cable investment may take needed monies away from the other pressing needs a city has in the provision of essential city services. Bread-and-butter issues, such as the desegregation of the educational system, reduction of welfare rolls, unemployment and the like, may have greater priority for immediate redress than would the development of a new communications medium possibly taking many years to break even financially.\*
2. City ownership poses a possibility that the city's competitive interests as an operator could conflict with other communications modes in the city, i.e. newspapers, radio, and TV broadcasters.

\* 1/10-10



(a) building and maintaining a system of the highest possible quality and flexibility; (b) attempting to achieve maximum penetration, as close as possible to 100 percent of all households; (c) airing controversial programs aimed at informing the citizenry and protecting their rights; (d) being more responsive to users' needs and complaints by striving to make reasonable repairs and program changes as dictated by public demand.

3. The city, as operator, would have the option of increasing the FCC minimum technical and channel requirements without securing agreement from another party to seek a waiver.
4. Municipal ownership will also make it possible to take a more direct control in changing the system as community needs and demands change and as technology advances.
5. There is considerable sentiment that a municipally owned system will be more innovative, more willing to experiment with programming than a private operator. (Proponents of this view assume that motivation to provide public service is stronger than the profit motive.)
6. Municipal ownership may offer better protection of free speech than private ownership because of municipalities' vulnerability to legal recourses for failure to abide by the First Amendment. Private owners are less vulnerable to such control. The only real recourse is the FCC and the subscribers, who could disconnect.
7. The municipality could be a better protector of privacy than a private operator. This conception assumes that the municipality will have more citizen involvement and control than would a private operator.

3. Although the FCC has absolved the owner from responsibility for such matters as obscenity on public access and leased channels, the government may be charged with the responsibility by the public, for example the use of profane language on a channel during a presentation. While the private operator may receive letters and some public ridicule, the municipal owner is more likely to receive demands that such conduct be prevented.
4. Municipal ownership might increase the possibility of abuses of personal freedoms of speech, press and privacy, as guaranteed by the U.S. Constitution.
5. The potential of two-way cable has caused concern about the right of privacy. Many insist that municipal ownership brings closer the 1984 concept of author George Orwell, where personal rights and freedoms are sacrificed to the interests of "Big Brother" because of the possibility that the home of the viewer could be more easily monitored with two-way cable.
6. If the municipality owns and/or operates a cable communications system and provides local news with or without editorials, the government becomes a potential official community voice and will possibly make ambiguous the notion of a free and independent press.
7. Many current municipal systems (e.g. police protection and trash collection) are often criticized as inefficient and not necessarily in the public interest.

## b. Financial Factors

### Advantages

1. Municipalities and private non-profit organizations are in a better position to tap sources such as federal and state governments and foundations for research and demonstration funds.
2. Municipal governments can borrow monies at much lower rates than commercial operators reducing the cost of system construction.
3. Cities empowered to issue general obligation bonds or revenue bonds with a secondary pledge can usually be marked at lower interest rates than revenue bonds. Lower debt service costs reduce the cost of cable service.
4. With lower system capital costs resulting from municipal funding, the city can anticipate positive cash flow from its system sooner than a privately owned system. Moreover, net revenues will be larger, since the city does not pay federal income taxes and capital costs are less. This surplus can be applied to system improvement, lower subscriber costs, or other public purposes.
5. Financially, municipal ownership can produce more public revenues than the municipality could realize under franchise agreements which restricts it to 3% of annual subscribers fees. (E.g. the city of San Bruno, Calif., expects \$200,000 in surplus revenues in year seven alone. This is much more than could be expected in ten years of franchise fees.)
6. Most arguments favoring municipal ownership focus primarily upon the allocation of the surplus or profits generated by the system. Many municipal

### Disadvantages

1. Financing a modern cable system involves heavy capital expenditures during the first years of construction and operation. Moreover, low initial operating revenues normally result in a negative cash flow in early years.
2. Notwithstanding the ability of a city to issue revenue bonds or general obligation bonds, several hurdles must be overcome: federal tax restrictions which present a crucial consideration. The existence of certain federal tax restrictions may severely limit the saving in interest cost sought through financing by means of municipal bonds.\* The crux of the federal tax issue is that a bond issue which would be used to finance the construction of the system could lose its tax-exempt status if the system were to be leased to a private operator.\*\* Even if only a part of the bond issue would be threatened, this result is dictated by the 1968 revision of the Internal Revenue Code which denies the tax-exempt status to bonds where a major portion of the proceeds are used in a trade or business with repayment being secured either by property acquired with the proceeds or by rentals for its use.
3. Municipalities may be required by state law to begin debt service within a year or eighteen months after the revenue bond issue. Since citizens are not required to become subscribers, there is no guarantee that the system will generate sufficient revenues to cover debt service in the first years of operation.

\* 2/41

\*\* 2/41

officials see cable as a way to solve city financial problems through the production of revenues over a long period of time. If the municipality can raise the required capital and operate with a negative cash flow for five years, cable could, at some point, pay off the debts it has created and produce a surplus.

7. There is also the possibility that surplus could be used for such things as reducing subscribers fees and increasing services.
8. Municipalities that operate public utilities have experience in development, construction and operation and management of systems similar to CTV.
9. Cities may own the poles or underground conduits necessary for system construction, thereby lowering development costs.
4. Cities should be prepared for a heavy lobbying effort by the industry against municipal ownership, especially at the point of attempting to raise revenues through a bond issuance, even facing a series of delaying lawsuits. If the industry does not fight the bond issue, there are a number of local sources that might: existing broadcasters, newspapers, private non-communications industries, or public interest groups.
5. Frequently, the bond issuing agency is required by the terms of the bond contract to raise subscriber rates without recourse to the public whenever the service is threatened with operating deficits.
6. During the life of the system, improvements must be made so that the system does not become obsolete. Adjustments may become necessary to improve signal strength or raise channel capacity. Operating funds may not be sufficient for the purpose, and the municipally owned system may have to go into debt again to make the needed changes.
7. In many states, revenue bond laws require--in the interest of financial security of the bonds--that the revenue producing service be operated by an independent service or public authority. California, however, does not appear to be bound to this requirement.
8. Federal tax laws generate a strong subsidy to private industry through tax credits for operating losses and depreciation. Thus a private cable system operator is buffered against the enormous negative cash flows typical of the cable industry. A municipally owned system, since it pays no federal income taxes, is not similarly protected, and the city can expect to make up major operating losses in its cable system operation for the first 2 to 5 years.



9. A potential danger of business failure would be in the retirement of outstanding debts. General obligation bonds would place the financial burden on the city. However, revenue bond losses would have to be absorbed by the revenue bond holder.
10. Taxes which might be necessary to meet new fiscal demands generated by cable may be met by a growing dissatisfaction with increased taxation, including community sentiment, which may not support the notion that municipal ownership is the best long-run strategy for developing cable TV potential for local purposes. The short-run costs may be sufficient to cause considerable political backlash when private organizations are ready to bear these costs.
11. There is the possibility of law suits resulting from system operation. Even though insurance would probably cover the financial liability, the system owners and operators may be subject to enough pressure to adversely affect system operation and utility.
12. There are presently 18 municipally owned systems in the U.S. However, in most cases municipal systems include a significant proportion of their subscribers from fringe reception areas. There is no municipally owned system in existence which services a clear signal area. Even the city of San Bruno CTV system, which is in one of the 100 largest markets, includes a fringe area of approximately 25 percent of its subscribers. This fringe area provides a financial base for the operation. Consequently, financial data on economic liability of municipally owned systems is limited.

### c. Operational Factors

#### Advantages

1. Private operators have been criticised for building, then not maintaining their system adequately. If this is the franchising experience of a particular city, they may have less power to insist on quality performance (as opposed to performance "adequate" to fulfill general franchise requirements) than if the municipality owned the system.
2. If the city has strong regulatory goals for a system's development, these might be easier to carry out if the city owned the system, particularly by easing the procedure of seeking FCC approval of a variance from normal standards.
3. Some claim the municipality will monitor technological improvements and make them more often and more readily than private operators. The rationale is that the municipality's first concern is the public interest and that, as the most direct link to the populace, it will respond to subscribers' demands to maintain a high quality system.
4. Cities that own and operate electric and water utilities already share a number of operational similarities with cable: utilities have employees with many of the necessary skills for cable installation and service, with experience in handling service calls, bookkeeping and billing.

#### Disadvantages

1. The ability of the municipality to make capital improvements largely depends on the availability of operating funds. Opponents to municipal ownership point out that municipalities are less likely than private companies to make changes because municipalities must use public funds to make substantial improvements. In the face of an ever-present need for revenues for other priorities, the city will have to justify expenditures for cable improvement to the public.
2. The complexity of cable management--marketing, financial accounting, advertising competition, contracting, labor, copyright, legal problems, weather problems, maintenance, insurance, and other vexing problems--constitutes a negative factor for municipal ownership as the municipality has no viable operational experience in the CTV industry.

## B. Nonprofit Organizations

### 1. Introduction

An increasing form of public ownership of cable television systems is evident in the nonprofit corporation type, of which there are some 60 in operation in this country.

A nonprofit private corporation is pertinent to modern cable television because it is a hybrid between public and private enterprises. Nonprofit status assures that management will not have a financial obligation to stockholders. It eliminates municipal management of the cable system as well. Depending upon its charter, a nonprofit corporation may be exempt from paying income taxes, thus increasing the possibility for retention of funds for local purposes, in addition to being able to provide cable service to the subscriber at a lower cost.

It is necessary to identify and resolve the legal problems relative to establishing a public corporation and to determine how its potential member organizations, particularly cities and schools, may participate and commit public funds to partially offset the initial operational costs.

So as to develop a detailed description of the proposed agency's goals and objectives, and specifically to identify the types of services that will be made available to member organizations, it is necessary to ascertain the position to be taken on questions such as these:

- a. What is the main function of the corporation, i.e. would it own and operate the cable system or would the municipality own the system and the nonprofit corporation operate it? (Of interest in this connection is the cable system in Frankfurt, Kentucky, where originally the system was owned and operated by the city. However, the city soon felt it was not able to manage the system in the best possible way, and a nonprofit corporation was created to operate the system while the city retained ownership.)
- b. What type of a governing body would there be and what relationship would it have to the community and the city?
- x c. Should the corporation have different types of memberships?
- d. What are the projected staff needs during the first five years, and what duties will they perform?
- e. Would noncorporate entities be eligible for services?

## 2. Advantages and Disadvantages of Nonprofit Organizations

### a. Public Interest

#### Advantages

1. Corporate management is free to emphasize as much public service as prudent expenditures will permit.
2. Increased involvement of the community members in the corporation should improve public involvement in the developing and utilization of local programming.
3. Because management is locally based, decision-making would be local and more responsive to public need.
4. Management is free of municipal control.

### b. Financial

1. Nonprofit corporations, under some circumstances, are allowed by the Internal Revenue Service to issue tax-exempt bonds to be issued on behalf of a political subdivision of a state, thereby significantly decreasing the cost of capital outlay.
2. An example of sources from which the initial "risk capital" amount of money could be obtained would be foundations, participating nonprofit organizations and a variety of governmental agencies.\* Additional benefits may be derived by utilizing as a source of capital such as loan guarantees and interest subsidies. Loan guarantees by agencies or foundations have been suggested as a method of making lending institutions more receptive to extending loans to nonprofit corporations created for the development of public cable.
3. Already there have been successful examples of the nonprofit corporation approach in cable construction and operation, such as the joint effort

#### Disadvantages

1. Nonprofit management may, to a degree, substitute for subscriber wishes its own conception of the public interest. The city regulatory mechanism would have to provide balancing incentives. Whether this arrangement would be more in the public interest than the relationship between the city and a profit maker is fundamentally a value judgment.
2. Special interest groups might gain control of the system and proselyte the system to its own interests.
1. Difficulty in assembling a community-based organization which would act as a catalytic agent necessary to design the basic corporate framework and management system and, more importantly, to raise initial risk capital required to obtain the additional borrowed capital necessary to sustain the corporation through its early unprofitable years.
2. The current high interest cost for risk capital would tend to reduce the feasibility of borrowing money during periods of extreme high interest rates. The degree to which this would be a disadvantage would be determined primarily by the percentage of the system raised or provided by the corporation. The less amount needed to be borrowed by the corporation, naturally, the lower the interest rate.
3. Although it is feasible for a nonprofit corporation to secure capital through the issuance of tax-exempt bonds pursuant to IRS Revenue Ruling 63-20, this form of financing may run contrary to state laws relating to municipal finance. Careful scrutiny of such laws must be included in exploring this facet of public finance.



of the United Church of Christ and the Hartford Insurance Co., and Norwalk and Waterbury, Conn. A different approach using the same basic concept is using the combination of public municipal ownership in combination with a separate non-profit corporation operating the system.

4. Overall advantage to this approach is that financing required to build and operate the system has lower interest cost which reduces the overall total cost of system development and use, thereby providing opportunity of reducing installation and subscriber fees, and increasing resources for the development of public service-oriented activities.
5. An appropriately constructed governing board would provide a non-profit corporation with consulting services which could donate management at no cost, thereby reducing costs.
6. Profits generated by a non-profit corporation would be retained in the community instead of being paid as dividends to absentee share holders.

#### c. Operational

1. Such a nonprofit organization might contract with a private, profit-seeking corporation to operate the cable system, retaining for itself the ownership and policy-making functions. As an alternative, a nonprofit group might negotiate with a private operator to share ownership of the system in a joint venture with the non-profit corporation maintaining controlling interest. The organization would maintain local control over the system's operation while utilizing management and technical capabilities of private enterprise.
2. A broadly based, properly constituted local corporation would be more sensitive to community needs and would be motivated to allocating a higher portion of the system's resources for reducing subscriber costs and improvement of public services.
1. Being able to bring together a diverse group of local representatives who have the time, business experience and motivation and capability to work together to provide necessary leadership to develop, operate and manage the CTV system can be an almost impossible task.
2. Voluntary-type of leadership is, in many cases, transitory and difficult to maintain viable board of corporate directors who would be capable to provide leadership and continuity to the corporation.
3. In the selection of board members from a diverse group of participating organizations making up a non-profit board, political struggles could result, thereby providing substandard members which might adversely affect the system's management.

3. The careful selection of an advisory committee which brings together a variety of appropriate specialized skills related to CTV system operation can provide valuable consultant resource material to management.
4. Local ownership and operation of the system not only makes it more receptive to the needs of the community and subscribers, but also because it is geographically available to them.
5. This type of system organization would make it possible to develop and implement affirmative action personnel policies regarding the hiring of employees and the purchasing of equipment and supplies. This should serve as a positive influence in dealing with local unemployed, underemployed and lack of adequate opportunities for minority parties and businesses.
4. This type of organizational and operational system might cause management problems because of the self-interests promoted by individuals and groups constituting the corporation.
5. It might be more difficult to hire capable management personnel to work in a system governed by a non-profit oriented lay board of decision-makers representing a variety of interest levels.

#### C. Special Public Authority Model

##### 1. Introduction

A Special Public Authority may be the best means of providing cable television services to contiguous geographical areas encompassing more than local government jurisdiction. Such regional service may be desirable in terms of economy (one head-end and studio facility; one set of management and administration personnel; larger market area and revenue base to justify more sophisticated technology and programming) and in terms of uniting with one communications link interdependent area having common interests. If a cable television system is to be limited to a single jurisdiction, then it should be under direct control of general purpose local government.

There are two possible approaches to establishment of a Special Public Authority: (a) state enabling-legislation that would permit establishment of a "special district" for the specific purpose of financing, constructing, operating and maintaining a cable television system;\* (b) a joint exercise of powers agreement between two or more local jurisdictions.

The legislation or agreement would define the structure and powers of the entity to be created and would establish system specifications and service standards in much the same manner as a city franchise to a private operator.\*\* Further, the legislation or agreement would specify the method of selection of members of the governing board, either election or appointment by city councils of the jurisdictions involved in accordance with an equal representation formula.

\* 2/42

\*\* 2/101

## 2. Organization

### a. Membership

Whether elected or appointed, members of the governing board should meet certain minimum qualifications to ensure a knowledgeable interest in cable communications. Backgrounds in business, finance, education, law, and communications should be represented, if possible, because of the nature of decisions that will have to be made. Thought should also be given to structuring the governing board to ensure representation of a cross-section of the community's groups and organizations.

### b. Restrictions Imposed Upon Members

- (1) Members should be subject to conflict of interest regulations similar to those governing actions of city councilmen and other public officials.
- (2) The legislation or agreement should contain provisions binding members to act in accordance with the terms of the legislation or agreement.
- (3) Meetings should be announced in advance and open to the public.

### c. Areas of Responsibility

- (1) Define the type of system to be built, determine the bid specifications, design application procedures, evaluate and select the bids.
- (2) Construction of the system.
- (3) Operation of the system.
  - (a) Business management.
  - (b) Regular programming and local origination programming.
  - (c) Supplying channels, equipment, and facilities to agencies responsible for programming the free municipal, educational, and public access channels.
  - (d) Administration of excess channel leasing.
  - (e) System for public information and prompt handling of complaints.
- (4) System maintenance, scheduled evaluation, and improvement of the system's capability and operation.

### d. Staffing

The Special Public Authority would be permitted to hire sufficient staff to fulfill its responsibilities and to contract for equipment, supplies, and services as necessary.

Decisions as to what should be done by staff and what should be done by contract are matters of management judgment which may vary from one location and set of circumstances to another. The possibility of contracting with the sponsoring general-purpose jurisdictions for business management and certain construction and maintenance work should not be overlooked.

### 3. System Construction and Operational Alternatives

a. The system could be constructed by a private enterprise and operated by the special public authority's staff.

b. Construction could be accomplished by the special public authority and operation of the system could be subcontracted to a private enterprise.

c. A subcontract could be issued for both the system construction and operation with different or same organizations.

### 4. Advantages and Disadvantages of the Special Public Authority Model

#### a. Public Interest

##### Advantages

1. A better, more efficient cable television service can be provided if two or more small cities join together, forming a larger market area and avoiding duplication of certain facilities and equipment. The suggested optimum scale of economy would be a system of approximately 10,000 subscribers.
2. Where citizens feel strongly that their city councils may not be responsive to public opinion and community needs sufficiently, a separate public authority dealing solely with CTV would provide greater influence and control over the system's management and operation.
3. If the governing board is structured to be broadly representative of the community, the decision-making process will more closely reflect the public's will than do elected city councils. In other words, there may be less politics involved in the decision-making process.
4. The increased participation of the community in the control and operation of the CTV system would promote higher degrees of community involvement in the system.

##### Disadvantages

1. A separate public authority for cable TV purposes may result in duplication of municipal agencies which might become competitive instead of cooperative, and, therefore, would tend to diminish the degree of public service provided by the system.
2. Experience with special public authorities or "special districts" in California has shown that these organizations tend to become "invisible" and are less responsive to public opinion and needs than general purpose.
3. Proliferation of public authority has caused concern on the part of some legislators, many of whom appear increasingly reluctant to create legislation which would establish special interest community agencies.



## B. Financial

### Advantages

1. Economies of operation and maintenance would be realized by a multi-jurisdictional cable television installation, thereby reducing overall financial requirements.
2. Fund-raising through sale of revenue bonds would not require divesting other funds necessary for other essential municipal services.
3. Enabling legislation can be written to permit sale of revenue bonds without approval by the electorate, as is required under some general purpose government charters.
4. Capital outlay, in terms of interest cost, would be significantly decreased by using tax-exempt bonds, thereby resulting in lower subscriber costs.

### C. Operational

1. A special public authority model may provide more public scrutiny over operations to ensure protection of the public interest.
2. The policy-making body and executive staff would be dedicated to cable television matters and would therefore be more effective in implementing and operating a cable television system.
3. A special public authority would provide for more effective use of the free public channels than would a private operator under a franchise.
4. A special public authority model may overcome the commonly held fear of government control of communications, which may be an issue under the municipal ownership model.
5. The governing body unhampered by the profit-motive constraint might be more prone to undertake more creative experiences designed to more adequately meet the community's needs.

### Disadvantages

1. Raising of capital resources might be difficult for the following reasons:  
(a) the State may be reluctant to form a special district and revenue bond capacity to finance it; (b) revenue bonds for this type of high risk enterprise would be difficult to sell, even though they carry a higher interest rate; (This disadvantage could be overcome by discounting the face value of the bonds which would thereby proportionally increase the interest cost, resulting in increased service debt for the authority.)  
(c) general ordinance bonds that would require any type of bonding format requiring public approval and whose principle value in interest would be guaranteed by municipal tax revenues, would be difficult to get tax payers' approval.

1. There may be more opportunity for unscrutinized, behind-the-scenes decision making because of the traditional "invisibility" of the special district form of organization.
2. Separate propriety agencies sometimes become too independent and fail to coordinate with other relevant public policy makers, resulting in decreasing cooperation with municipal government to coordinate services to the same constituents.

## VI. Summary

**CHOICE NOT CHANCE.** "Cable television today," wrote the Sloan Commission on Cable Communication, "is at a stage where the general exercise of choice is still possible. If for no better reason than that there is a history of government regulation in the field of television, it remains possible by government action to prohibit it, to permit it, or to promote it almost by fiat. Citizens may still take a hand in shaping cable television's growth and institutions in a fashion that will bend it to society's will and society's best intentions. It is not as yet encumbered by massive vested interests, although that day may be no longer remote. It is not as yet so fixed a part of the national scene, as for example conventional television is, that it appears almost quixotic to attempt to redirect its energies. There is, in short, still time."

**EDUCATIONAL PROCESS.** The first and most important step to be taken by any group of city decision-makers relative to cable TV is to become knowledgeable, not so much in the technological aspects of CTV, as with various ownership options, the available alternatives in writing a cable television ordinance, and the most advantageous means of putting together a cable franchise. The general public must also be made aware of the basic capabilities of cable television, what cable is, what it is not, and how it can serve the viewers, both in public services and as entertainment. With a good background in cable TV information, the orderly, most direct procedure can be implemented in bringing cable television to the community.

As the Sloan Commission reported, "Cable technology, in concert with other allied technologies, seems to promise a communications revolution." Cable TV as a viable means of communication, not only within the separate community, but also intercommunity and nation-wide, is recognized as a prime communications revolution. Although it is difficult to pinpoint the date in time when the revolution will break out in full force, the time is now to begin becoming informed concerning cable communications and its ramifications. "The problem of the inner city," wrote the Sloan Commission, "will not be solved by communication alone, but communications may be brought to play a most significant part. If cable technology proves indeed to be the heart of a communications revolution, its impact upon society's most immediate needs might be enormous."

In the great amount of literature now emerging on cable television, a few stand out as being exceptional. Among these are the publications of the Cable Television Information Center of the Urban Center, 2100 M Street, N.W., Washington, D.C. 20037, prepared in a loose-leaf binder format and sectioned for easy reference. These publications are continually updated. In addition, valuable cable information is available from several publications produced by The Rand Corp., 1700 Main Street, Santa Monica, CA 90406.

Both publications provide the two basic ingredients for local decision-making: (1) the background information necessary prior to decision-making, and (2) a decision-making process that involves both city management and representative community groups.

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The Rand Corp. For a bibliography of selected Rand publications on cable television, write The Rand Corp., 1700 Main St., Santa Monica, CA. 90406.